

MOSS & KALISH, PLLC

COUNSELLORS AT LAW

122 EAST 42ND STREET

NEW YORK, NY 10168-0098

TELEPHONE: (212) 867-4488

TELECOPIER: (212) 983-5276

E-MAIL: LAWYERS@MOSSKALISH.COM

MARK L. KALISH

GARY N. MOSS

LARRY Z. LAZAR*

DAVID B. GELFARB*

JAMES SCHWARTZMAN

ROBERT H. SIEGEL

OF COUNSEL

*ALSO ADMITTED IN NEW JERSEY

NASSAU OFFICE

400 GARDEN CITY PLAZA, SUITE 406
GARDEN CITY, NY 11530

writer's e-mail:

kalish@mosskalish.com

July 20, 2015

Via ECF

United States Chief Magistrate Judge Steven M. Gold
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

**Re: Acme American Repairs v. Katzenberg
03 Civ.4740 (RRM)(SMG)**

Dear Judge Gold:

As I am sure the Court knows, we represent Harvey Katzenberg.

On May 5, 2015 you granted Mr. Katzenberg's motion to compel plaintiffs to produce their 2014 financial statements, federal tax returns and local tax returns. The motion was granted without opposition.

By the same order, you denied Mr. Katzenberg's motion for sanctions. You reasoned that sanctions were not warranted because Mr. Katzenberg made the application close in time (April 28, 2015) to the filing deadline and the application itself involved a minimal amount of legal work.

Today is July 20, 2015, and we have not received any of the 2014 financials or tax returns. On June 23, 2015 I sent an email to plaintiffs' counsel inquiring about the status of the returns. I further advised plaintiffs' counsel that if I did not receive a response, I would have no choice but to address the matter with the court. See copy of email included with this letter.

I received no response.

By virtue of the final judgment of a New York State Court, Mr. Katzenberg is a 50% shareholder in plaintiff, Acme American Repairs, Inc. and holds various interests in the other

Chief Magistrate Judge Steven M. Gold
July 20, 2015
Page 2

plaintiff companies. He has the clear right to know what the financial status of these companies is. This is particularly so since prior financials statements have revealed illegal attempts on the part of Birinder Madan, his fellow shareholder, to enrich himself at the expense of his fellow shareholders and the plaintiff companies.

It is respectfully requested that the Court once again direct the plaintiffs to produce the 2014 financial and tax returns forthwith. In the unlikely event that these documents have not as yet been prepared, plaintiffs should be forced to provide a clear time table for their preparation and delivery.

In addition the Court should impose appropriate sanctions on plaintiffs and/or their counsel. Given the passage of over three months since the prescribed tax filing deadline, it is respectfully submitted that the rationale that sanctions are not warranted because not enough time has passed is no longer applicable. Moreover there should have been no necessity for me to take up the Court's time with this application. If for some unexplained reason the 2014 financials have not as yet been prepared, all plaintiffs' counsel needed to do was to respond to my email inquiry and tell me so. His failure to do even that little evidences a total disrespect for this Court's orders.

Thank you for your consideration of this matter.

Respectfully,

MARK L. KALISH



Mark Kalish

From: Mark Kalish
Sent: Tuesday, June 23, 2015 1:44 PM
To: mratner@ratner-law.com
Cc: David Gelfarb

Dear Misha: Please advise me as to the status of the 2014 financials for the Acme Companies which you indicated many months ago were still in the process of being prepared. I remind you that your client is subject to a continuing court order to provide the financials. Unless you respond promptly to this email, I intend to write to address the matter with the court.

MARK L. KALISH

Moss & Kalish, PLLC
122 East 42nd Street
New York, New York 10168
Phone: (212) 867-4488
Fax: (212) 983-5276

CONFIDENTIALITY NOTICE: The information contained in this e-mail is attorney privileged and confidential information. It is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are notified that any disclosure, copying, distribution, electronic storage or use of this communication is prohibited. If you received this communication in error, please notify us immediately by e-mail, attaching the original message, and delete the original message from your computer, and any network to which your computer is connected. Communications from our firm contain or incorporate federal tax advice. Under recently promulgated US Internal Revenue Service (IRS) standards, we are required to inform you that only formal, written tax opinions meeting IRS requirements may be relied upon by taxpayers for the purpose of avoiding tax-related penalties. Accordingly, this communication is not intended or written to be used, and cannot be used, for the purpose of avoiding tax-related penalties under the Internal Revenue Code.